IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.15215 of 1999

Between:

Executive Engineer I & CAD Spl. Investigation Division,
Srikakulam.

..... PETITIONER

AND

1 Sri Bongu Venkunaidu, S/o Narasimhulu,
R/o China Vantharam, Vantharam Post,
Balajipeta Mandal, Visakhapatnam District.
2 The Chairman, Industrial Tribunal cum Labour Court,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to I.D.No.16/95 dt: 24-9-98 on the file of Chairman, Industrial Tribunal cum Labour Court, Visakhapatnam and quash the same as illegal, and opposed to I.D.Act and pass such other order or orders as the Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: GP FOR SERVICES II

Counsel for Respondent No.1: SMT.N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for Respondent No.2: Government Pleader for Labour

The Court made the following :

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.15215 of 1999

ORAL ORDER:

This Writ Petition is filed by the Executive Engineer, Irrigation and Command Area Development, Special Investigation Division, Srikakulam (Management) being aggrieved by the Award dated 24-9-1998 passed in I.D.No.16 of 1995 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

It is the case of the petitioner that the 1st respondent-workman, on being sponsored by the District Employment Exchange, Srikakulam was appointed as a Survey Lascar by Proceedings dated 5-5-1975. He joined duty on 8-5-1975 and was attached to the Special Investigation Sub-Division, Bobbili under the control of the Executive Engineer. Respondent No.1 worked upto 15-6-1980. His services were terminated with effect from 16-6-1980 due to short allotment of grants in Special Investigation Sub-Division, Bobbili. Again, he was given fresh appointment on 10-10-1980 and joined service on 14-10-1980 and proceeded on leave on 19-10-1980 to go to his native place. However, he did not report to duty after 20-11-1980 and he overstayed the leave without giving any explanation. After a long time, he approached the petitioner to permit him to join duty with a representation dated 15-4-1982. Since the absence of the 1st respondent was more than 6 months without any leave application, it was treated as a wilful absence and he was removed from service on 10-6-1982. Aggrieved by the same, the 1st respondent filed a petition under Section 2-A(2) of the Industrial Disputes Act,1947 and the same was taken on file as I.D.No.16 of 1995 by the Industrial Tribunal-cum-Labour Court,

Visakhapatnam. The Labour Court entertained the same erroneously and passed an Award in favour of the 1st respondent herein directing his reinstatement with continuity of service, but without back wages.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Award.

Admittedly, when the services of the 1st respondent herein were sought to be terminated with effect from 10-6-1982, no enquiry of any sort was conducted and no charge sheet was issued. Therefore, the termination order dated 10-6-1982 suffers from gross violation of principles of natural justice. The Tribunal, therefore, held that the termination is arbitrary and illegal and granted the relief of reinstatement with continuity of service, but without back wages.

It is seen that the 1st respondent-workman, though, was removed from service on 10-6-1982, he raised a dispute under Section 2-A(2) of the Act only in the year 1995 i.e. after a lapse of 13 years from the date of his termination. However, the Tribunal entertained the same and since there was gross violation of principles of natural justice, directed reinstatement of the workman with continuity of service, but without any back wages. Having regard to the facts and circumstances of the case and particularly in view of the fact that the respondent-workman raised the dispute after more than 13 years, I am of the opinion that the Tribunal has grossly erred in awarding the relief of continuity of service while directing reinstatement of the workman into service without any back wages. Therefore, the Award of the Tribunal is liable to be modified and accordingly modified.

In the result, the petitioner-management is directed to reinstate the 1st respondent-workman into service afresh without continuity of service and without any back wages.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

28-7-2005

prk